

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

DR. CARNITA ATWATER,)
NEW CHICAGO COMMUNITY)
PARTNERSHIP REVITALIZATION CDC,)
NEW CHICAGO CDC,)
CLAY HOUSE; WEST JUNCTION/)
WALKER HOMES COALITION, HYDE)
PARK/DOUGLASS/HOLLYWOOD)
ASSOCIATION; COALITION OF AFRICAN)
AMERICAN MUSEUMS AND ARTISTS; et al,)

Plaintiffs,)

v.)

Case No. 2:19-cv-02291-JTF-dkv

MAYOR JIM STRICKLAND; MAYOR LEE)
HARRIS; STATE OF TENNESSEE,)
GOVERNOR BILL LEE;CITY OF MEMPHIS;)
MEMPHIS CITY COUNCIL; SHELBY)
COUNTY; SHELBY COUNTY COMMISSION;)
CITY OF MEMPHIS/SHELBY COUNTY)
LAND BANK; LAND USE CONTROL BOARD;)
OFFICE OF CODE ENFORCEMENT; DOUG)
MCGOWEN; JOHN ZEANAH; ASHLEY)
CASH; PAUL YOUNG; MEMPHIS/SHELBY)
OFFICE OF PLANNING AND DEV.; BLIGHT)
AUTHORITY OF MEMPHIS for the MEMPHIS))
BLIGHT ELIMINATION CHARTER;)
NEIGHBORHOOD PRESERVATION, INC.;)
BLDG MEMPHIS, MEMPHIS TOMORROW;)
DOWNTOWN MEMPHIS COMMISSION, et)
al.,)

Defendants.)

**ORDER DISMISSING PETITION FOR TRO AND DISMISSING PLAINTIFFS HYDE
PARK/DOUGLASS/HOLLYWOOD ASSOCIATION AND COALITION OF AFRICAN
AMERICAN MUSEUMS AND ARTISTS FOR FAILURE TO PROSECUTE**

Before the Court is Plaintiffs' *pro se* Complaint for Temporary Restraining Order and Preliminary Injunction against the above named Defendants that was filed on May 7, 2019.

(ECF No. 1.) The Memphis City Council and the City of Memphis filed an Affidavit and Response in Opposition to the motion for injunctive relief on May 9, 2019. (ECF Nos. 14 & 14-1). The Court initially set a motion hearing for May 9, 2019. The matter was rescheduled, along with a Show Cause Hearing for Plaintiffs' failure to appear on May 13, 2019. (ECF Nos. 13, 15–17.) On May 13, 2019, Dr. Carnita Atwater appeared on behalf of herself, New Chicago Community Partnership Revitalization CDC and New Chicago CDC. Present on behalf of Clay House were Beverly Clay and Kerry Clay. Desma Turner appeared on behalf of West Junction/Walker Homes Coalition and Brenda Taylor appeared on behalf of Glenview Development Corporation. No one appeared on behalf of Hyde Park/Douglass/Hollywood Association or for the Coalition of African American Museums and Artists. Present for the City of Memphis, the Memphis City Council and three individually named parties, Memphis Mayor Jim Strickland, Doug McGowen, and Paul Young were council Allan J. Wade and Brandy S. Parrish. (ECF No. 18.)

The Court advised the Plaintiff and representatives of several organizations listed as Plaintiffs of several preliminary concerns. As an initial matter, Dr. Atwater, is not a licensed attorney and as such may only appear on behalf of herself and not another party or entity. Federal law allows parties to “plead and conduct their own cases personally or by counsel.” *See* 28 U.S.C. § 1654 and *Bass v. Leatherwood*, 788 F.3d 228, 230 (6th Cir. 2015); *Shepard v. Wellman*, 313 F.3d 963, 970 (6th Cir. 2002). “The rule against non-lawyer representation ‘protects the rights of those before the court’ by preventing an ill-equipped layperson from squandering the right of the party [s]he purports to represent.” *Zanecki v. Health Alliance Plan of Detroit*, 576 Fed. App’x 594, 595 (6th Cir. 2014) (*per curiam*). Therefore, the Plaintiff organizations have until May 29, 2019, in which to obtain legal representation.

Next, the Court noted other procedural and substantive deficiencies with the case as it stands now before the Court. These issues include jurisdictional concerns, difficulties in discerning the legal claim(s) within the Complaint, whether summonses and notices have been properly issued to the named defendants, and whether the case has been filed prematurely.

Last, the Court dismissed the Petition for a Temporary Restraining Order for lack of substance because the record does not show adoption of an Ordinance with respect to the Memphis 3.0 Comprehensive Plan by the Memphis City Council. Thus, a Temporary Restraining Order would be inappropriate.

All outstanding issues identified above, including consideration of the Petition for a Preliminary Injunction, will be addressed during the Motion Hearing that is set for Wednesday, May 29, 2019 at 11:30.

CONCLUSION

Accordingly, the Petition for a Temporary Restraining Order is Denied. Also, Plaintiffs Hyde Park/Douglass/Hollywood Association and the Coalition of African American Museums are dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED this 13th day of May, 2019.

s/John T. Fowlkes, Jr.
JOHN T. FOWLKES, JR.
UNITED STATES DISTRICT JUDGE